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Paper No. 3

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MAR 14 2002

OFFICE OF PETITIONS

In re Application of	:	
Kosaka & Plate	:	DECISION ON PETITION
Application No. 09/839,978	:	
Filed: April 20, 2001	:	
Attorney Docket No. 018928000110	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed on April 20, 2001.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A review of the application file reveals that petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/183,797, of which the instant filing is a continuation application. However, petitioner has not submitted a copy of the decision, mailed on January 24, 2002, granting a petition to accord § 1.47 status to the prior application in accordance with 37 CFR 1.63(d)(3)(I).

Even if petitioner had submitted the grant decision from Application No. 09/183,797, the instant petition would not be granted because it was impossible for Inventor Plate to execute the declaration that he received. The declaration that was mailed to Inventor Plate's last known address only listed him as an inventor without any reference to the other joint inventor. The Declaration should set forth all of the joint inventors on the same page to ensure that each named inventor is aware of the other named inventors of the subject matter. See 37 CFR 1.63. For this reason, the oath or declaration that Inventor Plate saw was not in compliance with 37 CFR 1.63. MPEP 409.03(a).

Petitioner must send Inventor Plate a copy of the application with a declaration listing **both** of the joint inventors. When Inventor Plate does not respond to the request that he sign the declaration or expressly refuses to do so, then petitioner will be entitled to Rule 47 status in this application.

Pursuant to petitioner's authorization, deposit account No. 20-1430 will be charged the \$130.00

petition fee associated with this matter.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By facsimile: (703) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



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